UNITED STATES PATENT AND TRADEMARK OFFICE

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10/531,623	11/29/2005	Daisuke Tsunoda	ARGM-109US	8417

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EXAMINER
CYGIEL, GARY W

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>09 December 2008</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>3,6 and 16-19</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>3,6 and 16-19</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

2.   The factual inquiries set forth in _Graham_ **v.** _John Deere Co._, 383 U.S. 1,

148 USPQ 459 (1966), that are applied for establishing a background for

determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at
         issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating
         obviousness or nonobviousness.

3.   Claims 3, 6 and 16-19 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Kuwabara et al. (Japanese Patent No. JP411015850A) using

both the Derwent and JPO abstracts the teachings in view of Shaheen et al. (US

Patent No. 5,893,920) and further in view of Postel et al. (RFC0959, c. 1985),

Bennett (Reliability of TCP/IP and the Internet, c. 1996) and McCarty (Linux

Command Quick Reference, c. 1999).

Consider **Claims 3 and 6**,

Kuwabara teaches a data storage system comprising a vehicle-mounted terminal

mounted on a vehicle, (Derwent, use in a mobile terminal in a vehicle.) and a

fixed information center for transmitting data to said vehicle-mounted terminal in response to a request from said vehicle-mounted terminal (Derwent, acquires demanded data from data center), in which:

said vehicle-mounted terminal which operates remotely from said fixed information center includes:

terminal communicating means for communicating with said information center (Derwent, data is received through a communication unit.),

temporary cache means for temporarily storing therein said data (Derwent, temporary cache),

permanent cache means for storing therein said data for a predetermined period (Derwent, permanent cache), and

memory selecting means for selectively having said temporary cache means and said permanent cache means store therein said data received by said terminal communicating means (JPO Abstract, HTML tag indicates which cache data is to be stored in.); and

said fixed information center includes:

center communicating means for communicating with said vehicle-mounted terminal,

data sorting means for sorting said data into temporary cache data to be stored in said temporary cache means and permanent cache data to be stored in said permanent cache means (JPO Abstract, HTML tag indicates which cache data is to be stored in.).

Based on the abstracts of Kuwabara, there is no explicit teaching of:

available space obtaining means for obtaining a storage space available in said permanent cache means of said vehicle mounted terminal and determining whether said available storage space is sufficient for the permanent cache data to be stored in said permanent cache means, and

data deletion means for automatically deleting pieces of data stored in said permanent cache means of said vehicle mounted terminal responsive to said permanent cache data means not being sufficient to store said permanent cache data, said pieces of data being deleted automatically without user intervention to increase said available storage space in said permanent cache means of said vehicle mounted terminal to a sufficient amount of available storage space needed to store said transmitted data, wherein said information center checks whether or not said data has been stored.

However, Shaheen does teach available space obtaining means for obtaining a storage space available in said permanent cache means of said vehicle mounted terminal and determining whether said available storage space is sufficient for the permanent cache data to be stored in said permanent cache means (Shaheen:Fig 4B:Item 432), and

data deletion means for automatically deleting pieces of data stored in said permanent cache means of said vehicle mounted terminal responsive to said permanent cache data means not being sufficient to store said permanent cache data, said pieces of data being deleted automatically without user intervention to increase said available storage space in said permanent cache means of said vehicle mounted terminal to a sufficient amount of available

storage space needed to store said transmitted data, wherein said information center checks whether or not said data has been stored (Shaheen:Fig 4B:Item 438).

Shaheen and Kuwabara are both directed towards methods of managing a cache in a remote terminal and are therefore considered analogous art. It would have been obvious to a person of ordinary skill in the art at the time of the invention to implement the space determining and data deletion methods of Shaheen in the system of Kuwabara because this improves cache effectiveness by intelligently clearing space for files to be cached.

However, the ability to perform checks as to whether or not data has been stored properly is a fundamental ability of almost all computers connected via a network and the examiner is taking official notice of this fact. In support of the official notice, the examiner provides Postel, Bennett and McCarty which all teach about well known elements of networking which are Linux, TCP/IP and FTP. The examiner is merely using these as evidence that the state of the art at the time of the invention *clearly* made obvious the ability to perform checks on proper storage. The error detection/correction of TCP/IP combined with the teachings regarding the Linux commands make clear that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to not only make sure your file was sent/stored properly (TCP/IP.FTP), but also provide the ability to check the available space (Linux) and delete items (Linux,FTP) at will because this makes the system more robust and reduces

design time by using notoriously well-known methods in the combined system of

Kuwabara and Shaheen.

Consider **Claims 16 and 17**,

The combination of Kuwabara and Shaheen further teaches wherein said

available space obtaining means includes means for automatically without user

intervention judging whether storage space is available in said permanent cache

of said vehicle mounted terminal before said fixed information center transmits

said data to said permanent cache of said vehicle mounted terminal

(Sheheen:Fig 4B:Item 432 occurs prior to 438;Col 7:Lines 55-65, data is cached

from a server. Therefore, the space obtaining means occurs before the caching

(retrieval from server).).

Consider **Claims 18 and 19**,

The combination of Kuwabara and Shaheen further teaches wherein said

memory selecting means classify said data into two types of data, one being

stored in said temporary cache means as being likely to be frequently updated,

the other being stored in said permanent cache means as being unlikely to be

frequently updated (Kuwabara:JP Abstract, data which is frequently requested is

stored in the permanent cache. Data that is frequently requested is unlikely to be

frequently updated because then it would be different data and be requested less

frequently.).

Response to Arguments

4.   Applicant's arguments with respect to claims 3,6 and 16-19 have been

considered but are moot in view of the new ground(s) of rejection provided in

response to applicants amendment submitted 09 December 2008.

The examiner notes that the applicant's claimed invention appears to be

essentially a regular computer with a wireless connection between certain

elements. The MPEP discloses (2144.04) that the following modifications of

known systems are obvious variations of the prior art.

Making Portable

In re Lindberg, 194 F.2d 732, 93 USPQ 23 (CCPA 1952) (Fact that a claimed

device is portable or movable is not sufficient by itself to patentably distinguish

over an otherwise old device *unless there are new or unexpected results*.).

Rearrangement of Parts

In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) (Claims to a hydraulic

power press which read on the prior art except with regard to the position of the

starting switch were held unpatentable because shifting the position of the

starting switch would not have modified the operation of the device.); In re Kuhle,

526 F.2d 553, 188 USPQ7 (CCPA 1975) (the particular placement of a contact in

a conductivity measuring device was held to be an obvious matter of design

choice). However, "The mere fact that a worker in the art could rearrange the

parts of the reference device to meet the terms of the claims on appeal is not by

itself sufficient to support a finding of obviousness. The prior art must provide a

motivation or reason for the worker in the art, without the benefit of appellant's
specification, to make the necessary changes in the reference device." Ex
parte Chicago Rawhide Mfg. Co., 223 USPQ 351, 353 (Bd. Pat. App. & Inter.
1984).

In the current application, the prior art teaches mobile computing devices
that communicate with remote servers for the retrieval of data. Given the state of
the art at the time of filing (PCT filed 16 October 2003) almost any configuration
of known computing devices may be obvious unless there is some new or
unexpected result.

Conclusion

5.   Applicant's amendment necessitated the new ground(s) of rejection
presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.
See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as
set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire
THREE MONTHS from the mailing date of this action. In the event a first reply is
filed within TWO MONTHS of the mailing date of this final action and the advisory
action is not mailed until after the end of the THREE-MONTH shortened statutory
period, then the shortened statutory period will expire on the date the advisory
action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be
calculated from the mailing date of the advisory action. In no event, however, will
the statutory period for reply expire later than SIX MONTHS from the date of this
final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GARY W. CYGIEL whose telephone number is (571)270-1170. The examiner can normally be reached on Tuesdays and Thursdays 12:00pm-2:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be reached on (571)272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hyung S. Sough/   /Gary W Cygiel/
Supervisory Patent Examiner, Art Unit 2188   Examiner, Art Unit 2188
03/11/09

/G. W. C./
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